

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BENITA JOHNSON

Plaintiff,

-against-

BRANCH BANKING &amp; TRUST CO.,

Defendant.

USDC SDNY  
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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 05/05/2025

7:23-cv-01981-NSR

ORDER

NELSON S. ROMÁN, United States District Judge:

*Pro se* Plaintiff commenced the instant action on March 8, 2023. (ECF No. 1.) *Pro se* Plaintiff last communicated with the Court on March 22, 2023 to file a proposed Order to Show Cause for a Preliminary Injunction with a Temporary Restraining Order. The Court has not received further communication from either party since that date, lending credence to the conclusion that the instant action should be dismissed for want of prosecution.

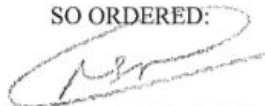
“Dismissal for want of prosecution is a matter committed to the discretion of the trial judge.” *Peart v. City of New York*, 992 F.2d 458, 461 (2d Cir. 1993) (internal quotation marks omitted). This discretion, however, “is conditioned by certain minimal requirements.” *Id.* (internal quotation marks omitted). In particular, the Court should consider: (1) the duration of plaintiff’s [] failures; (2) whether plaintiff had received notice that further delays would result in dismissal; (3) whether defendant is likely to be prejudiced by further delay; (4) whether the district judge has carefully balanced the need to alleviate court calendar congestion and a party’s right to due process; and (5) whether the court has assessed the efficacy of lesser sanctions. *Id.* (internal quotation marks omitted).

As stated above, it has been over a year since the Court has heard from Plaintiff. Particularly, not only has Plaintiff’s failure to prosecute this action impeded the Court’s efforts to “avoid calendar congestion and ensure an orderly and expeditious disposition of cases,” *Cortez v.*

*Suffolk Cty. Corr. Facility*, No. 15-CV-1957 (JFB) (AKT), 2016 WL 6302088, at \*2 (E.D.N.Y. Oct. 25, 2016), but the adversary process has been halted because of . . . essentially unresponsive part[ies],” *Jackson v. Beech*, 636 F.2d 831, 835–36 (D.C. Cir. 1980).

Accordingly, it is hereby ORDERED that Plaintiff show cause in writing on or before June 5, 2025 why this action should not be dismissed without prejudice for want of prosecution pursuant to Fed. R. Civ. P. 41(b). Failure to comply with this Court’s present order will result in dismissal of this case for want of prosecution. The Clerk of Court is respectfully directed to mail a copy of this Order to *pro se* Plaintiff at the address on ECF and show service on the docket.

Dated: May 5, 2025  
White Plains, New York

SO ORDERED:  
  
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NELSON S. ROMÁN  
United States District Judge